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**UIC MEDICAL CENTER PAYS \$2 MILLION TO UNITED STATES AND
STATE OF ILLINOIS TO SETTLE LIVER TRANSPLANT FRAUD SUIT**

CHICAGO -- The University of Illinois today paid the United States and the State of Illinois \$2 million to settle a lawsuit filed in July that alleged the University's Medical Center at Chicago improperly diagnosed and hospitalized certain patients in the late 1990s to allow them to become eligible sooner for liver transplants. The state and federal governments intervened four months ago in a "whistleblower" lawsuit brought by a liver transplant surgeon and professor at the University of Illinois College of Medicine, alleging fraudulent practices in the liver transplant program at the University of Illinois Hospital, and at the same time settled similar allegations involving the University of Chicago and Northwestern Memorial Hospital, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, and Illinois Attorney General Lisa Madigan.

The settlement agreement between the state and federal governments and the University of Illinois Board of Trustees was filed in U.S. District Court after the University of Illinois at Chicago paid a total of \$2,003,290.78 today. The University of Illinois at Chicago paid the United States \$1,001,645.39, of which the government paid \$250,411.35 to Dr. Raymond Pollak, the transplant

surgeon and “whistleblower” who began the litigation in 1999. UIC also paid \$751,234.04 to the State of Illinois, and separately paid Dr. Pollak \$250,411.35. Dr. Pollak received 25 percent – the maximum allowed by law – of the total settlement proceeds. UIC also paid \$299,000 in attorney fees, expenses and costs to Dr. Pollak’s lawyers, Robin Potter & Associates.

In addition to the payment, the settlement agreement contains several integrity requirements effective for three years, including a provision that the UIC Medical Center must continue to implement its existing Corporate Compliance Program. The medical center must also promptly report and repay overpayments by federal health care programs, report discovery of any program violations, submit annual reports certifying compliance with the integrity provisions, cooperate with any government audits or inspections and retain reimbursement records from federal health care programs for four years. If UIC Medical Center fails to comply with the integrity requirements in the agreement, it is subject to agreed monetary penalties.

As part of the agreement, the U.S. Department of Health and Human Services Office of Inspector General will not take any administrative action to exclude UIC from the Medicare, Medicaid or other federal health care programs.

“This settlement – for twice the amount of actual damages – sends a clear message to health care providers that they will be held accountable for defrauding government payment programs. By falsely diagnosing patients and placing them in intensive care to make them appear more sick than they were, patients eligible for liver transplants were placed ahead of others who were waiting for organs in the transplant region,” Mr. Fitzgerald said.

“A hospital’s desire to receive additional state and federal health care dollars should play no role in whether or not a patient is eligible for an organ transplant. As our settlement makes clear,

facilities that do so will be severely punished,” Attorney General Lisa Madigan said. “Not only did the defendant defraud the state and federal governments, it endangered individuals. These actions are legally and morally wrong.”

The settlement agreement contends that the United States has certain civil claims against UIC for submitting claims to Medicare and Medicaid between Jan. 1, 1995, and Dec. 31, 1998, for the following conduct:

- admitting liver transplant-eligible patients to the intensive care unit when it was not medically necessary;
- admitting liver transplant-eligible patients to the hospital when it was not medically necessary;
- billing for these medically unnecessary hospitalizations and services;
- falsely diagnosing patients to justify their placement on the liver transplant eligibility list;
- falsely identifying patients as “Status 1” or “Status 2A” for the purpose of making them eligible for liver transplants before other patients also in need of transplants; and
 - transplanting a patient who was medically ineligible to receive a transplant.

The University of Illinois suit alleged that between 1996 and 1998, at least three federally-insured patients were admitted to the Medical Center for lengthy liver transplant hospitalizations in intensive care, which was not medically necessary at the time. Two of the patients received liver transplants despite failing to meet the criteria established by a national organ sharing network for priority among eligible patients. A fourth patient who received a liver transplant at UIC in 1996 allegedly was ineligible for the procedure because she had liver cancer. The improper hospitalizations and diagnoses enabled UIC to transplant enough patients to meet the minimum

number of liver transplants necessary to be certified under the Medicare and Medicaid programs, thus enabling it to receive federal and state reimbursement for the procedures, the suit alleges. In 1998, UIC received approval for Medicare reimbursement for liver transplants based on having completed at least 12 such procedures in 1997 and also in 1996, when it performed 14 transplants, including two that allegedly were fraudulent.

The settlement agreement provides that UIC denies and claims valid defenses to all of the allegations in the lawsuit, and maintains that its conduct “was at all times appropriate and lawful.” The university also denies and contests any allegation or inference that “any patient or prospective patient was ever adversely affected, harmed or damaged in any way as a result of the conduct of any of its physicians.” UIC does not admit any liability or facts and asserts that it settled solely to avoid the expense, delay and uncertainty of protracted litigation. At the same time, the United States, the State of Illinois and Dr. Pollak do not concede that their claims are not well founded, according to the settlement agreement.

The state and federal governments sued the University of Illinois for triple damages of approximately \$3 million, alleging that the University’s Chicago Medical Center engaged in the fraudulent practices so it could increase the number of liver transplant patients and ensure that it would receive Medicare and Medicaid reimbursement for the procedures. The governments settled similar claims against the University of Chicago Hospitals for \$115,000, and Northwestern Memorial Hospital for \$23,587, respectively.

The civil complaint alleged that UIC defrauded Medicare and Medicaid of \$1,001,645.39 as a result of false claims for reimbursement and it sought three times that amount under the federal

False Claims Act. The Illinois Department of Public Aid and the federal government each fund half of Medicaid's budget.

Livers and other transplant organs are allocated through the Organ Procurement and Transplant Network (OPTN), a nationwide system and registry to allocate donor organs, maintain a waiting list of potential recipients, match recipients with organs and increase organ donations. OPTN operates the United Network for Organ Sharing (UNOS), which establishes medical criteria for patients and assigns them a status level to determine their priority for a liver or other organ transplant. Due to a shortage of available livers, patients not meeting the two highest status levels were less likely to receive a transplant under ordinary circumstances in the late 1990s.

The case began on Feb. 4, 1999, when Dr. Raymond Pollak filed a lawsuit under seal in Federal Court, alleging violations of the federal False Claims Act, the Illinois Whistleblower Reward and Protection Act and his employment rights. The suit claimed that UIC improperly diagnosed and hospitalized patients and exaggerated the seriousness of their medical conditions to liver Status 1 – confined to intensive care and likely to die within seven days, and liver Status 2A – chronic liver disease with sudden deterioration, in intensive care and likely to die within seven days. The case is United States of America and State of Illinois ex rel. Raymond Pollak, M.D., v. Board of Trustees of the University of Illinois and the University of Chicago, 99 C 710 (N.D. IL.).

Dr. Pollak, of Skokie, is a full professor of surgery and director of the Abdominal Organ Transplant Program at the Peoria campus of the University of Illinois. Prior to April 1998, he was the director of the University of Illinois' multi-organ transplant program.

Under the False Claims Act, whistleblower lawsuits are filed under seal to allow the government an opportunity to investigate the allegations and decide whether to take an active role

in the litigation. After a thorough investigation of the allegations, the United States and the State of Illinois took over prosecution of the alleged Medicare and Medicaid billing violations involving the University of Illinois, but not Dr. Pollak's wrongful employment allegations, which remain pending.

The allegations were investigated by the U.S. Department of Health and Human Services Office of Inspector General, the Federal Bureau of Investigation and the Illinois State Police Medicaid Fraud Control Unit.

The United States is being represented by Assistant U.S. Attorney Lisa M. Noller, and the State of Illinois is being represented by Assistant Attorney General Timothy D. Nimrod.

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